

GEORGE M. KAPOLCHOK
KAPOLCHOK LAW OFFICES, LLC
360 K Street, Suite 100
Anchorage, Alaska 99501
Phone: (907) 278-8850
Fax: (907) 278-8860
E-mail: lawoffices@kapolchok.com

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOHNNIE CRISCO and THE)	
ESTATE OF ANNA CRISCO by HER)	Case No. 3:03-cv-00011-JKS
PERSONAL REPRESENTATIVE,)	
ROBIN BOOKER,)	REPLY TO DEFENDANT'S
)	OPPOSITION TO ADD A
Plaintiffs,)	MEDICAL EXPERT WITNESS
)	AND TO DEPOSE DEFENDANT'S
vs.)	EXPERT
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

Past Delay The government argues, "Discovery in this case has been open for approximately three years" (Opposition at pg. 1). While technically true, the course of the case has been interrupted for long periods of time by a number of valid and unforeseeable events. The most significant of these in the order of their occurrence were:

- Plaintiff's progressing and uncontrolled infection requiring multiple surgeries.
- Defendant's counsel's sabbatical following brain surgery.
- The amputation of plaintiff's leg and the recovery period.
- The automobile accident reinjuring plaintiff and the hiatus to resolve those claims.
- The death of plaintiff's wife.
- The pressure brought to bear on treating physician Dr. Hall by the forces of tort reform.

The government next explains that plaintiff can sustain his *prima facie* case with Dr. Hall's testimony as a treating physician, and that his inability to "sign on" as an expert who produces a report is not needed. Dr. Hall's findings and opinions are of record, but by not being free to consult with, assist, and prepare a detailed point for point report, plaintiff and his counsel are completely hampered from presenting the medicine to the court in the manner required by the adversarial system.

No Delay Is Sought With a trial date not until December, plaintiff seeks no delay and will present Dr. Nolan's findings forthwith and make him available for deposition should the defendant wish. Plaintiff also has offered to absorb all the costs of defendant's expert deposition, which should not exceed two hours.

DATED: May 18, 2006

s/George M. Kapolchok
George M. Kapolchok
Alaska Bar No. 7510071
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2006, a true and correct copy of the foregoing document was served electronically upon:

Richard L. Pomeroy
Assistant U.S. Attorney

s/Paula Beneke
Kapolchok Law Offices, LLC